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The continuous journey of civil and criminal judicial cooperation in the digital sector within the context of the European Union law

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Abstract: The continuous evolution of digitalization, data protection and digital by default at channels within the Union context as well as at national level, is a reality for the European integration. Likewise, the continuous judicial cooperation in the civil and criminal sector concerning digitalization matters has been going on steadily since 2013. The European legislation is rich in this regard, as well as the national one whether binding or not. Digital platforms are continuously increasing, allowing an exchange of information and data in the judicial cooperation sector, putting once again the need for cross-border evaluation of data at the top of the European Union law system.

Keywords: digitalization; European civil and criminal judicial cooperation; e-codex; eu-Lisa; personal data protection; digital by default; e-Justice portal; online data exchange; telematic

channels; e-government.

Introduction

The continuous integration of new technologies within the EU context, is embraced by an area of security, freedom and justice, according to Art. 67 TFEU (Kellerbauer, Klamert, Tomkin, 2024), which highlights the use of IT devices and technological tools with clear potential and endless risks (Šišková, 2024).

Accelerating a long journey with complex and varied arguments, in this regard, is evident and must be followed with the strategic use of dematerialization of cross-border judicial assistance mechanisms (Themeli, 2022; Vicario Perez, 2024).

An important position is the recasting for the taking of evidence abroad in civil and commercial matters through the Regulation (EU) 2020/1783)¹ as well as the intra-Community notification for judicial and extrajudicial documents of the same matters through the Regulation (EU) 2020/1784).² Furthermore, the circumstances of a telematic channel, as a means of communication, used by the competent authorities for the Member States, are taken into account.

¹Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (recast), in OJEU L 405 of 2 December 2020, p. 2 et seq.

²Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters ('service of documents') (recast), *ibid.*, p. 40 et seq.

The Regulation (EU) 2023/2844 (Gascòn Inchausti, 2024)³ accompanied by the Directive (EU) 2023/2843⁴ represents a transversal extension for the important principle, namely the digital by default, as a corollary of decentralization and IT interoperability of European instruments, which are pertinent to various areas for judicial cooperation.

What is of most interest is not the principle of digital by default but civil and criminal cooperation, in this regard, and how they can be used. These are open channels of information and data for machines, which try to address needs that do not foresee the possibility of resorting to forms of electronic interaction as well as admitting gaps in security, reliability and recognition of a legal value for the material, which is exchanged electronically.

It is important to pay attention to cross-border judicial assistance that follows the future of technological innovation through regulatory developments and with investigations for the methods and forms of action of the Union.

³Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitalisation of cross-border judicial cooperation and access to justice in civil, commercial and criminal matters and amending certain acts in the area of judicial cooperation, in OJEU L 27 December 2023.

⁴Directive (EU) 2023/2843 of the European Parliament and of the Council of 13 December 2023 amending Directives 2011/99/EU and 2014/41/EU of the European Parliament and of the Council, Council Directive 2003/8/EC and Council Framework Decisions 2002/584/JHA, 2003/577/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA, 2008/947/JHA, 2009/829/JHA and 2009/948/JHA, as regards the digitalisation of judicial cooperation, in OJEU L 27 December 2023.

European judicial area and digital integration

European justice, not only at the level of the Court of Justice of the European Union and of Tribunal, i.e. of the two judicial bodies of the Union, but also at a national level for civil, commercial and criminal proceedings, makes evident the elements of transnationality and litigation in continuous increase.⁵

The distinction of cross-border assistance in the civil, commercial and criminal sector identifies a common denominator for the objective of guaranteeing the interests for effective access to justice.

In this spirit, we note Articles 81-89 TFEU (Kellerbauer, Klamert, Tomkin, 2024) relating to police cooperation, which allow the Union to promote mutual and precise trust for its Member States and to approximate the national legislations, that implement the principle of mutual recognition for decisions and judicial acts.

This is a sensitive matter for legal assets. As a consequence of this, the Union promotes the development and judicial assistance

⁵European Commission, European e-Justice internet portal offers quick answers to citizens' legal questions of 16 July 2010: https://ec.europa.eu/commission/presscorner/detail/en/ip_10_956 (Accessed on 08.09.2025); European Commission, Commission proposes to modernize and digitalise EU civil judicial cooperation of 31 May 2018: https://ec.europa.eu/commission/presscorner/detail/en/ip_18_3991 (Accessed on 08.09.2025); European Commission communication, The EU Justice Agenda for 2020 - Strengthening Trust, Mobility and Growth within the Union, COM (2014) 144 def. of 11 March 2014.

in this sector through the adoption of competences to its Member States.

The general objective of digital transformation goes forward with the support of cooperation mechanisms that are present to eliminate the distance, that exists between national jurisdictional bodies and the negative cost/benefit balance of the subjects connected with the order of the Union.

The initiatives of the Union regarding digitalisation are many such as for example the Communication of the Commission entitled “An information society for all”,⁶ which followed in time an Action Plan entitled “eEurope”.⁷

This action plan has played an important role in the exploitation of data and in changes concerning technological progress. In this context, the need for a right of access to the Internet, that spreads a collective framework, is placed as a primary good.⁸

The European Commission spreads the use of modern

⁶European Commission, Communication on a Commission initiative for the Special European Council in Lisbon on 23 and 24 March 2000: eEurope - An information society for all, COM (1999) 687 final, 8 December 1999. European Commission “eEurope 2002: Impact and priorities, Communication for the Stockholm European Council, 23-24 March 2001”, COM (2001) 140 final, 13 March 2001.

⁷European Union Council and European Commission, eEurope 2002. An Information Society For All. Action Plan prepared by the Council and the European Commission for the Feira European Council 19-20 June 2000, dated 14 June 2000.

⁸European Parliamentary Research Service (EPRS), Internet access as a fundamental right. Exploring aspects of connectivity, Brussels, 2021. Again, on the importance and impact of the Internet in relation to very young people, Commission, European Strategy for a Better Internet for Children (BIK), COM (2012) 0196 final, of 4 May 2012; EPRS, EU Strategy on the Rights of the Child, COM (2021) 142 final, of 24 March 2021; EPRS, A Digital Decade for Children and Young People: The New European Strategy for a Better Internet for Children (BIK+), COM (2022) 212 final, of 11 May 2022.

technologies for information and telecommunication (ICT) to citizens, to national and supranational institutions, and to businesses.

The technological bases and infrastructures give rise to online European programs, for example, on health as well as to education through the adoption of e-learning platforms and the electronic use of public services (e-Government). Within this framework, we also note the versions of an action plan, such as “eEurope 2005”.⁹

The telematic framework of the “electronic public administration” (Nixon, 2007) as well as the modernization of procedures involving public administration are considered opportunities for the quality of services that grow over time in a productive and efficient way. Thus, the telematic system and the exchange of information for the organizations that deal with the member states, arise a path of services, that go beyond the European level and is oriented towards the electronic government that changes and transforms itself.¹⁰

The eGovernment and the related Communication of the Commission called “Towards a European strategy on e-Justice”

⁹Communication from the Commission, eEurope Action Plan 2005: An Information Society for all, COM (2002) 263 final, 28 May 2002.

¹⁰Decision 2004/387/EC of the European Parliament and of the Council of 21 April 2004 on interoperable provision of pan-European eGovernment services to public administrations, businesses and citizens (IDABC), in OJEU L 144, 30 April 2004. European Commission, European Interoperability Framework for Pan-European eGovernment Services (Version 1.0), Luxembourg, 2004, p. 1ss.

have highlighted, unequivocally, a process of precise digitalization in the jurisdictional sector.¹¹

The “global strategy” definition for the use of electronic means is implemented at national level, coordinating and also helping the Union. The key to digital modernization for judicial systems depends on the will of the Member States, in the absence of a European discipline, which independently makes the projects available to the justice bodies for legal practitioners and procedural actors, as platforms that find information relating to legislation and jurisprudence.

European initiatives, in this regard, promote a telematic dialogue, that introduces procedures in electronic form. In the domestic sphere a cross-border impact is formed. Professional organizations have highlighted projects, which aim at the electronic transmission of information and the development of interconnection within the European legal context.¹² This is a European Judicial Network in commercial, civil¹³ and criminal matters (EJN).¹⁴

¹¹European Commission, Towards a European e-Justice Strategy, COM (2008) 329 final, 30 May 2008, p. 3.

¹²See the network for the presidents of the Supreme Courts of the European Union: <https://network-presidents.eu/> (Accessed on 08.09.2025) and the Notories for Europe: <https://www.notariesofeurope.eu/en/> (Accessed on 08.09.2025).

¹³Council Decision (EC) No 2001/470 establishing a European Judicial Network in civil and commercial matters, in OJEU L 174, 27 June 2001, p.25.

¹⁴Council Decision 2008/976/JHA on the European Judicial Network, in OJEU L 348, 24 December 2008, pp. 130-134.

In 2013, the European Commission introduced a uniform portal for electronic justice, the e-Justice Portal, which sought to coordinate networks.

The EU through a one-stop shop sought to meet the purposes of creating a multilingual digital environment, that reaches citizens and businesses to find information for cross-border judicial procedures between Member States, through European practices, which electronically regulate the portal itself. This portal constitutes a telematic service, that allows the full and effective functioning of the fundamental rights and freedoms recognized in the European Union.

As a final objective we can consider the increased use of cross-border judicial cooperation. This is a perspective that quickly strengthens and reinvigorates the mechanisms, that allow the exchange of information between competent authorities for the Member States and the creation of a virtual, safe and reliable space.

This encourages the use of examination techniques for video and teleconference. It is, also, a technology, that is constantly evolving within a European regulatory landscape, which in the past has shown moments of forgetfulness and neglect.

From the past to the present. From the present to the future

The first concrete results, in this regard, have been seen, especially from the European Commission. In as much as, the Council has adopted a Multiannual Action Plan 2009-2013, which in a horizontal manner addressed areas of law, creating interoperable solutions, interconnected with the objective of European integration.¹⁵

The plan was inserted, in a fragmented way, to the Member States, which acted in a coordinated way, but also involved third countries.

The Council within the legitimacy of these external initiatives of the Union believed that e-justice was a commitment that had as its basis the European e-justice, that is, a European identity of precise dimension. Thus, the way was opened for a European statute with initiatives of digital transition and the implementation of legislation for the Union in the field of justice for the needs of citizens and economic actors.

There was also the platform “e- Justice Communication via Online Data Exchange” (e-Codex), i.e. a digital transition government towards the establishment of a European agency. This body was composed of technical and specialized personnel on 1st December 2012 under the name of the agency of the Union. It is a large-scale operational management system of the

¹⁵Council of the European Union, Multiannual Action Plan 2009-2013 on e-Justice, in OJ EU C 75, 31 March 2009, p. 1 et seq.

IT for the area of freedom, security and justice, the so-called eu-Lisa.¹⁶

The e-Justice Strategies and the Multi-annual European e-Justice action plans were developed by the Council for the periods 2014-2018¹⁷ and 2019-2023,¹⁸ thus constituting the objectives set for the European e-Justice Portal.

These strategies gradually increase the functionality and content of a digital enhancement through the availability of new dematerialization procedures.¹⁹ Electronic communications for judicial authorities, and the e-Codex progressively focused on meeting requirements, which had to do with sustainability, decentralization and technological interoperability, in a semantic way (A.A.V.V., 2019).

¹⁶Regulation (EU) 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, OJ L 286, 1 November 2011, subsequently repealed by Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA), amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA, OJ L 295, 21 November 2018, pp. 99-137, as amended by Regulation (EU) 2023/969 of the European Parliament and of the Council of 10 May 2023 establishing a collaboration platform to support the functioning of joint investigation teams, OJEU L 132 of 17 May 2023, pp. 1-20.

¹⁷Council of the EU, Multiannual Action Plan 2009-2013 on e-Justice, in OJEU C 75 of 31 March 2009, pp. 2-13. Also, Council of the EU, Council Conclusions on the Sustainability of e-CODEX, doc. 15774/14 of 24 November 2014.

¹⁸Council of the EU, Multiannual e-Justice Action Plan 2019-2023, in OJEU C 96 of 13 March 2019, pp- 9-32.

¹⁹Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 on certain aspects of company law, in OJ L 169 of 30 June 2017, repealing Directive 2012/17/EU, and the European Insolvency Register (IRI), introduced by Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings, in OJ L 141 of 5 June 2015.

The processing and retrieval of data, which were shared by the portal, had as their object the exchange of information. To do this, the Council has collaborated with the European Commission and the European Parliament.

According to the Union, the European legal web consists of digital aid for automatic search and translation as well as controlled vocabularies, i.e. identifiers, which add and try to standardize a metadata structure for acts, documents originating from the European legal system and are available online. Institutional web pages, like friends to chatbots, are part of artificial intelligence, helping the publication of legal acts by the relevant EU Publications Office.

The need to process data, during and after the pandemic period, has focused on the health sector at European level (Ontanu, 2023). In this regard, the Regulations (EU) 2020/1783 and (EU) 2020/1784 are concluded, highlighting the end of a legislative process, that was developed before the pandemic.

The digitalisation of programmatic documents,²⁰ such as the Commission Communication “Digitalisation of Justice in the

²⁰European Parliament, Resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences, in OJEU C316 of 6 August 2020, taking into account the Communication from the European Commission, Europe's moment: repairing the damage and preparing for the next generation, COM (2020) 456 final, of 27 May 2020. Council of the EU, A roadmap for recovery – Towards a more resilient, sustainable and fair Europe, of 23 April 2020. Council of the EU, Access to justice. Seizing the opportunity of digitalisation, in OJEU C 342 of 14 October 2020, which revealed the desire to further accelerate the spread of the technological medium.

European Union”, was the basis of a process,²¹ which carries out the process of digitalisation of justice to all Member States. It is moving forward, from the European Commission, showing the lack of planning, the complexity and its ineffectiveness to European citizens and businesses.

Active electronic solutions, which derive predominantly from initiatives, take place on a voluntary basis, between Member States, for legal practitioners, etc. to overcome obstacles of the past. The need for an additional package to prepare regulatory, technical and financial instruments for continuous coordination and monitoring, is a reality. The European Commission implements digitalisation in a discretionary manner, i.e. through soft regulation instruments.

The pandemic has opened the way to high-level interconnectivity technologies, which invest in the sector of work, consumption, and socialization. The Union acquires and affirms digital sovereignty as its choice. For this reason, it highlights the joint conclusions from the European Parliament, Commission and Council for the period 2020-2024,²² as well as the e-Justice Strategy 2024-2028²³ having as its final objective a

²¹European Commission, Digitalising Justice in the European Union. A Package of Opportunities, COM (2020) 710 final, 2 December 2020.

²²Joint conclusions of the European Parliament, the Council of the European Union and the European Commission on strategic priorities and objectives for the period 2020-2024, in OJEU C 451 of 29 December 2020, pp. 4-5.

²³Council of the EU, European e-Justice Strategy 2024-2028, doc. 15509/23 of 17 November 2023.

justice that responds to the needs of a constantly evolving society.

The financial resources, used by the Union, to achieve digital results, are provided for by the Regulation (EU, Euratom) 2020/2093, which created a multiannual financial framework (MFF) within the 2021-2027 time frame.²⁴

Within this context, we also note Regulation (EU) 2020/2094, which has established a mechanism for data recovery, namely the so-called Next Generation EU.²⁵

In general terms, the financial budget is considered high for the single market of innovation and the digital agenda. The Union has, also, opened a discourse, in this regard, that will be concluded within the next few years, namely in 2030.²⁶

For the moment this process is based on the European Declaration of Digital Rights and Principles.²⁷ The reform of the relevant cross-border legal proceedings, namely the

²⁴Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021-2022, OJ L 433, 22 December 2020, pp. 11-22.

²⁵Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery of the economy after the COVID-19 crisis, OJ L 433, 22 December 2020, pp. 23-27.

²⁶European Commission, Digital Compass 2030: The European blueprint for the digital decade, COM (2021) 118 final, 9 March 2021; Decision (EU) 2022/2481 of the European Parliament and of the Council of 14 December 2022 establishing the strategic programme for the digital decade 2030, in OJ EU L 323 of the Commission and Member States. European Commission, Towards a more resilient, competitive and fair Europe, COM (2023) 558 final, 27 September 2023; ID., State of the digital decade 2024, COM (2024) 260 final, 2 July 2024.

²⁷European Declaration on Digital Rights and Principles for the Digital Decade, in OJEU C23/1 of 23 January 2023.

digitalisation package, the EU Regulation 2023/2844 and EU Directive 2023/2843, also falls within this spirit.

Some reflections on Regulation (EU) 2023/2844 and the amending Directive (EU) 2023/2843

Regulation (EU) 2023/2844 has highlighted the Union's intervention for digitalization in the field of cross-border legal assistance. It is an instrument, which through past regulations, seeks to list and draw up an annex, namely Annex I for civil matters and Annex II for criminal matters.

More precisely, Art. 3, of such regulation, deals with the media and Art. 4 has created an access point for the new procedures of the European portal that seeks to dematerialize them in the introductory phase.²⁸

The application of such regulation starts from the first day of the following month and for the next two years from the entry into force for the implementing acts, that come from the European Commission. These are legal instruments contained in the relevant annexes according to art. 26, par. 3.²⁹ Such an

²⁸Art. 19a of Regulation (EU) 2023/2844, although it does not apply to the notification or communication of documents pursuant to Regulation (EU) 2020/1784 or to the taking of evidence pursuant to Regulation (EU) 2020/1783, makes significant changes to the regime of intra-European notifications. Art. 17 of Regulation (EU) 2023/2844, relating to the obligation for Member States to communicate to the Commission by 17 July 2024 the information required therein, so that it can be made available on the European e-Justice Portal.

²⁹Art. 5 of Regulation (EU) No. 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of

applicability, *ratione temporis*, differentiates and explains the intervention of the European Commission, that will be developed until 2029.³⁰

The risk will remain until 2031, i.e. the year of implementation of the regulation. The European Commission fulfills tasks, before the deadline, that has been established, by art. 10, par. 3, lett. A-c). The implementing regulations are necessary for the functioning of a decentralized IT system for telematic exchanges, i.e. for digital procedural rules within the infrastructure of the e-Codex, that implements the standards. In this spirit, Directive (EU) 2023/2843 also plays its role as a result of the objectives set by the regulation, which constitutes its own binomial.

The regulation lays the foundation for a new autonomous legal basis, which seeks to digitize judicial cooperation procedures, thus establishing a common direct and applicable discipline.

The reasoning of quality, clarification, coherence is established through the specific regulation without neglecting the expected changes, which concern directives and framework decisions for the Member States, that have provided and adapt their respective systems. This, also, justifies the choice for a separate, complete legal instrument, which guarantees the alignment of national regulations through a set of rules, which are introduced by the

implementing powers, in OJ EU L 55 of 28 February 2011, as required by art. 15 of Regulation (EU) 2023/2844.

³⁰Art. 10, par. 3, letter. d) of Regulation (EU) 2023/2844.

Union and grant the physiology of flexibility and transposition for the Member States. Articles 12-15 show a process for the Member States, that makes its entry into the implementing acts of the European Commission, thus operating technological solutions for the countries of the Union.

The regulation is addressed to competent authorities and judicial bodies, such as prosecutors, central authorities, authorities that designate and notify in a compliant manner the legal acts that are listed in Annexes I and II including the agencies and bodies of the Union, which participate in criminal legal assistance.

As a competent authority, the referral made of the acts, which are part of the annexes, is highlighted. Art. 5 specifies that the Union is enabled for hearings and hearings in commercial and civil matters by video conferences and similar means. Accordingly, Art. 6 binds the judicial bodies and authorities that are part of the procedures, which are pertinent for the acts and pursuant to Annex II.

The functioning of telematic channels

The recast of the regulations for cross-border evidence and notification is stated in Art. 3 of the regulation analyzed above. It is a telematic channel for communication. In this way, a binding obligation of cooperation, between the competent authorities in the different Member States of Union to interact

with each other in a decentralized computer system, is formed.³¹ Such a binding nature is not absolute, however, it allows the use of alternative means for exceptional circumstances, in an explicit and definable way, within a computerized platform. It works as an exception of a generic and relative nature for causes of force majeure.

The derogations arising from the use of systems of the Taking of Evidence (ToE) and Service of Documents (SoD) are points that seek to implicitly consider such tools.³² The alternative means, at an electronic level, show a physical, technical and exchange incompatibility.

From an exemplary point of view, the documents are converted into digital format. Many times the disproportionateness during the conversion forces the authority in charge to use telematic interactions for the transmission of samples.

According to Art. 3, par. 2 the alternative means result in responding to traditional analogue channels, such as the postal service, which allows the use of any means of communication, and telematic platforms and devices, which are different from regulation but guarantee the reliability, safety and efficiency of the system.

³¹Art. 5 of Regulation (EU) 2020/1783; art. 7 of Regulation (EU) 2020/1784.

³²See in particular the regulations (EU) 2020/1783, 2020/1784 and 2023/2844. CJEU, 18 December 2007, C-314/06, Pipeline Méditerranée et Rhône, ECLI:EU:C:2007:817, I-12273, par. 22. 17 October 2013, C-203/12, Billerud Karlsborg et Billerud Skärblacka, ECLI:EU:C:2013:664, published in the electronic Reports of the cases, par. 31.

The pre-filled forms are inherent for the acts including the instrument under investigation. The Union seeks to standardize the methods of presentation of requests for cross-border legal assistance.

The forms are exchanged for a decentralized computer system, except for the hypothesis for the competent authorities in the different Member States, which give their assistance for the procedures concerning exclusively legal acts, according to Annex II.

The urgency for other methods of transmission is oriented within the exchange in situ. Thus, the situation for the issuing and executing authority also contains the European investigation order.³³

The attempt found in Art. 3, par. 6 of the Regulation (EU) 2023/2844 is taken into consideration, that is, the internal digitalization, that addresses the national judicial systems. In this way, a provision is constituted, which suggests the use of the IT platform and decentralizes the Union for the communications coming from the authorities of a Member State. In the same way, it is proposed, that the communications are developed within the competent agencies and bodies of the Union, according to Annex II.

Dematerialize documents, that imply the loss of the original

³³Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters, in OJ EU L 130, 1 May 2014, p. 1.

support, lead to a secondary context. The work of the European Commission, through a framework of 2020, has to do with new technologies and national judicial systems.³⁴

The regulation under examination, neutralizes the discrepancies between the procedural legislation of the Member States. Art. 8, similarly, seeks to codify, in an equivalent way, the electronic, physical support of the initial content.

Regulations (EU) 2020/1783, 2020/1784 and (EU) 910/2014 (eIDAS)³⁵ have established a specific instrument, which electronically identifies qualified trust services.

Art. 7 of Regulation (EU) 2023/2844 in combination with Art. 8 seek to reinvigorate dematerialized and paper documents requiring signatures and seals. They are addressed to the use of trust services, according to the eIDAS regulation.

Art. 8 does not refer, therefore, to the principle of procedural autonomy of a domestic judge limited to the reasons implying the inadmissibility of the material based on its electronic format. Other national rules preclude, in a contemplated manner, the national law, that continues to be in force.

Such regulations, thus, impose, in a favorable manner, the use of

³⁴Commission Staff Working Document accompanying the Communication on “Digitalising Justice in the European Union”, SWD (2020) 540 final, 2 December 2020, pp. 1 et seq.

³⁵Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, in OJ EU L 257, 28 August 2014, p. 73 et seq.

remote communication technologies including participation in the relevant hearings for the interested parties. In this way, the European legislator seeks to form, in a programmatic manner, for the Member States, an interconnected digital justice.

Accordingly, the European legislator provides for a series of precautions concerning the protection of the rights of defense and fundamental guarantees, i.e. arguments for criminal proceedings. These are technological means that encounter limits set by the *lex loci*, i.e. by the Member State that requests the activities carried out and the resources that are actually available.

The role of the e-CODEX

The continuous integration of the Union has among other objectives that of cooperation between Member States, third countries and professional organizations (Velicogna, Lupo, 2017). The e-Justice Communication via Online Data Exchange in a short time is part of a digital evolution of cross-border cooperation.

The Regulation (EU) n. 850/2022³⁶ establishes a European statute for organizational and practical solutions, in this regard.

The e-Codex together with the eu-Lisa allow and build a choice

³⁶Regulation (EU) No 850/2022 of the European Parliament and of the Council of 30 May 2022 on a computerised system for cross-border electronic exchange of data in the field of judicial cooperation in civil and criminal matters (e-CODEX system) and amending Regulation (EU) 2018/1726, in OJ EU L 150 of 1 June 2022, pp. 1-19.

of total governance.³⁷

It is a technology, that describes in a thoughtful way, the coexistence and integration of domestic IT devices.³⁸ The qualification and quality of interoperability, as well as the decentralization of choices, require reasons of security and sustainability for legislative reasoning.

The establishment of a platform focuses on principles of proportionality and subsidiarity, within the scope of competence of the Union.³⁹

The E-Codex seeks to respond to access points relating to digital, functional modules, interconnected to judicial systems with Member States. Electronic access occurs through software and precise interfaces (Miloud, Nicolau, 2023).⁴⁰

According to Art. 12 of the Regulation (EU) 2023/2844, a certain freedom is left to the European Commission regarding the design, distribution and maintenance absorbed by the relative budget.

The issue of general costs of the e-Codex is addressed by Art. 13 of the Regulation (EU) 2023/2844, which highlights and distributes among Member States methods, that are defined by

³⁷Art. 10 and recital n. 15.

³⁸Recital n. 6 and 20 of Regulation (EU) 2023/2844.

³⁹European Commission, Report on the proposal for a regulation on a computerised communication system in cross-border civil and criminal proceedings (e-CODEX system) and amending Regulation (EU) 2018/1726, COM (2020) 712 final, 2 December 2020.

⁴⁰“Evidence Digital Exchange System”.

Art. 3 and 4 of Regulation (EU) 850/2022. Last but not least, the updates of the relevant national IT systems are less rigorous according to the new continuously evolving standards.

Circularity of sensitive data and digitalization

The precise and effective protection of accessibility for the interested parties is used by the e-Codex, i.e. an electronic justice portal, which exercises the rights and freedoms recognized to all subjects of the Union. After that, advertising is important as well as the meaning for training and digital literacy. The end users, i.e. businesses and citizens are legal operators, who prefer, according to Art. 11 of the Regulation (EU) 2023/2844, justice professionals.

The e-Codex considers the procedures relating to institutional and private actors. In this way, a series of questions arise for the protection of sensitive and transmitted data.

Personal information is considered important and can always be assessed positively in the era of continuous digital integration, which protects the Union by contributing to regulatory instruments (Romero, 2021).

Art. 16 TFEU, 7 and 8 CFREU (Kellerbauer, Klamert, Tomkin, 2024) together with Art. 8 of the ECHR create a discipline relating to the protection of these data. They are sources that codify the respect for private and family life as well as confidentiality, privacy of individuals.

The reference, which is part of Art. 14 of Regulation (EU) 2023/2844 as well as the data protection regulations, allow the competent authorities to send and receive the material via the e-Codex in an automatic way and in the title of the data controller for sensitive data, according to Regulation (EU) 2016/679 (RPGD),⁴¹ as well as Regulation (EU) 2018/1725⁴² and Directive (EU) 2016/680.⁴³

The European Commission is responsible for data access as well as it is the controller, who fulfills the obligations imposed by the regulations for the protection of natural persons in relation to the processing of personal data by the institutions, bodies and

⁴¹Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), in OJ EU L 119/1 of 4 May 2016.

⁴²Regulation (EU) 2018/1725 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, in OJ EU L 295/39 of 21 November 2018.

⁴³Directive 2016/680 Directive 2014/41/EU of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, in OJ EU L 119 of 4 May 2016.

agencies of the Union.

The regulations allow the protection of legal persons within the civil and commercial sphere. In addition, they represent a framework, which benefits from the dematerialization procedures. It was also the Court of Justice of the European Union that tried to express these criteria as well as Regulation (EU) 2016/679 which is extended to legal persons.⁴⁴

Overall, the use of electronic access identifies the user. Accordingly, the system is based on a flow of information, that is sensitive and even protects state legislation. In cross-border procedures transmits the material of the law as a status, that guarantees the transmission chain, as well as the Member State, where its receiving authority is located.

Concluding remarks

The procedural process for digital and IT integration, within the judicial and cross-border cooperation systems in the context of the Union and its Member States, is a reality that has been going on for some time. The dimension of the soft law and the form of preceptive instruments are considered through a highly precise digital path, which intervenes in the discipline of a new

⁴⁴CJEU, 9 March 2017, Manni, C398/15, ECLI:EU:C:2017:197, published in the electronic Reports of the cases, par. 30ss: “(...) “personal data” in light of Regulation (EU) 2016/679, which replaced Directive 95/46/EC (...) information relating to the legal person, i.e. pertinent to the professional sphere, can be classified as personal data, provided that it is directly attributable to - and therefore allows for the identification of - the natural person (...)”.

electronic standard in an absolute way.⁴⁵ Within this context, the technicality respects the needs of a human society as well as the ratio of the reforms, which are oriented in the digital context to benefits that cancel and foresee the risks to a legal economic and personal sphere of the Union subjects.

The legislation is rich, in this regard, and the fundamental rights and guarantees of the individual affect above all the criminal sector, as tools of a daily basis, that verifies the efficiency and the core of the values and principles of the Union. The duties as well as the civil and criminal matters have a transnational character.

The obligation to use electronic means except for the cases, that are imposed on the competent authorities, i.e. natural and legal persons, for which there is an optional regime for the Member States, the institutions and agencies of the Union, is a reality.⁴⁶ It is the European Commission as well as the eu-Lisa, that through a telematic channel put principles of equality for arms within civil and criminal proceedings in a transnational way.

⁴⁵See Art. 4 and recital no. 29 of Regulation (EU) 2023/2844 establishes an important distinction between natural and legal persons and the competent authorities of the Member States and of the Union.

⁴⁶Art. 16 of Regulation (EU) 2020/850; Art. 16 of Regulation (EU) 2023/2844.

This is a reality, that extends, monitors and controls digitalization in a constructive and sometimes in a non-critical way (Pastrana, 2024; Faggiani, 2024).

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